

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 7, 2003

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
TARIFF FILING TO INTRODUCE THE
BELLSOUTH SELECT BUSINESS PROGRAM
Tariff No. 2002312**

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**DOCKET NO.
02-01179**

ORDER APPROVING TARIFF

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on November 4, 2002 for consideration of the *Tariff Filing to Introduce the BellSouth Select Business Program* (the "*Tariff Filing*") filed by BellSouth Telecommunications, Inc. ("BellSouth") on October 1, 2002.

Background

BellSouth originally introduced and placed into service the Select Business Program on August 27, 2001, without filing a tariff for Authority approval. Thereafter, the Select Business Program was brought before the Authority through complaints filed by Access Integrated Networks, Inc. and XO Communications, Inc. in Docket No. 01-00868¹ on September 18, 2001 and October 9, 2001, respectively. Those complaints were consolidated into Docket No. 01-

¹ See *In re: Complaint of XO Tennessee, Inc. Against BellSouth Telecommunications, Inc. and Complaint of Access Integrated Networks, Inc. against BellSouth Telecommunications, Inc.*, Docket 01-00868, *Final Order Affirming in Part and Vacating in Part the Initial Order of Hearing Officer* (June 28, 2002) and *Order Denying Relief Requested in Petition to Reconsider* (October 1, 2002).

00868 and a Hearing Officer was appointed to hear the case on the merits. The findings and sanction imposed by the Hearing Officer were reflected in the Initial Order of the Hearing Officer entered on April 16, 2002.

The Authority then consisting of Chairman Sara Kyle, Director H. Lynn Greer, Jr. and Director Melvin J. Malone considered the case pursuant to an appeal filed by BellSouth. In that case, the Authority found that "BellSouth's Select Program offered terms and conditions for purchasing regulated tariff services that were not presented to the Authority for approval...."² The Authority further found that BellSouth had violated the Authority's rules regarding tariffing requirements (Rules 1220-4-1-.03, .04, and .06 and 1220-4-2-.06(1)). Accordingly, the Authority upheld the Hearing Officer's findings that required BellSouth to discontinue the non-tariffed Select Business Program and the fine of \$169,200 imposed on BellSouth for said violations. The Authority also upheld the findings that BellSouth had violated the resale provisions set forth in the Authority's Order issued on January 17, 1997 in Docket 96-01331³ because it had not offered the Select Business Program for resale.

BellSouth's Tariff Filing

BellSouth's *Tariff Filing* proposed an effective date of October 31, 2002. BellSouth subsequently changed the effective date to November 4, 2002. The Select Business Program proposed in the *Tariff Filing* allows business customers who meet certain criteria to earn points called "Select Points" that may be redeemed for or used to obtain discounts on various non-regulated BellSouth products and services. Select Points may also be redeemed for cash in the form of a check issued by BellSouth Select, Inc. To qualify for the Select Business Program,

² See *In re: Complaint of XO Tennessee, Inc. Against BellSouth Telecommunications, Inc. and Complaint of Access Integrated Networks, Inc. against BellSouth Telecommunications, Inc.*, Docket 01-00868, *Final Order Affirming in Part and Vacating in Part the Initial Order of Hearing Officer*, p. 4 (June 28, 2002).



³ See *In re: The Avoidable Costs Of Providing Bundled Service For Resale By Local Exchange Telephone Companies*, Docket No. 96-01331, *Final Order in Docket No. 96-01331* (January 17, 1997).

business customers must spend between \$100 and \$3,000 per month on services from BellSouth. The Select Business Program requires no enrollment charge, no term commitments, and no termination charge.

Upon careful review of BellSouth's *Tariff Filing*, the Authority finds that the *Tariff Filing* is in compliance with Authority Rules 1220-4-1-.03, .04, and .06 and 1220-4-2-.06(1). Further, the *Tariff Filing* includes a provision allowing the Select Business Program to be resold, thus complying with the resale provisions set forth in the January 17, 1997 Order in Docket No. 96-01331. At the November 4, 2002 Authority Conference, the voting panel voted unanimously to approve BellSouth's *Tariff Filing*.

IT IS THEREFORE ORDERED THAT:

BellSouth Telecommunications, Inc.'s *Tariff Filing to Introduce the BellSouth Select Business Program* – Tariff No. 2002312 is approved as filed.


Sara Kyle, Chairman
Deborah Taylor Tate, Director
Ron Jones, Director